

Thursday, October 26, 2023 at 09:45:55 Eastern Daylight Time

**Subject:** Re: Questions Related to Defendant's Response to Plaintiff's Motion and Memorandum; Civil Action No. 3:19-0573

**Date:** Thursday, October 26, 2023 at 9:39:30 AM Eastern Daylight Time

**From:** Jim Kyles

**To:** Travis Fisher, Derek Teaney, Joe Lovett, Mike Becher, jhecker@publicjustice.net, Howard Sammons

**CC:** Robert Chambers, US District Court, Darcy Sachs, djackson@carollo.com, ghoeger@carollo.com, Shana ., Kermit Fincham

**Attachments:** image003.png, image004.png, image002.png

Received.

A few follow-up questions are below. Perhaps if Kermit is available to join the "ionic" call next week, we might be able to discuss this in a bit of detail then (probably will require 10 - 15 minutes). Otherwise, we might do need a separate call to resolve some items.

Question 1. It is difficult to assess the degree of compaction caused by the bobcat without seeing the process in action. You can clearly see the tread marks in the photo but it is possible that with a very dry mix and dry weather, the effect might not be that bad. It certainly seems like this would be a potential disaster if the work was done in wet conditions or with wet media. Are there any daily construction logs or videos of the installation, weather conditions, etc.? There is a comment that there was prior successful use of this installation method at other BCRs. Please identify on which sites this was used?

Question 2. Although we now know what is in the media mix, we do not know the proportions or thickness. Also, we don't know the depth of the gravel layer at the bottom (Cardno called for 2 ft). Please provide the details of the proportions of the media mix and thickness.

Question 3. It appears that there is no drain grid in BCR#1 because of the belief that it wouldn't be required for a small BCR. That may be true, but you will still be reliant on the gravel layer for distribution of fluids. This could be a bit risky, especially if the layer is thin or not particularly clean and permeable. We also don't have any details on the piping arrangement for influent and effluent - are you planning to spread the influent at all to help distribute flows and ensure adequate contact of fluids and media?

Let's try to cover these during next Tuesday's call if possible.

Regards,

Jim Kyles

On Wednesday, October 25, 2023 at 02:06:06 PM EDT, Howard Sammons <[howard@sammonslawfirmwv.com](mailto:howard@sammonslawfirmwv.com)> wrote:

Special Master Kyles,  
Attached is Lexington's response to your October 19th questions and concerns related to the BCR construction. Just let me know if you have any questions or would like to set up a call with Lexington to discuss.

Thanks

**W. Howard Sammons II, Esq.**

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